
Smt. Movan Bai ... Appellant

The Government of Andhra Pradesh,
represented by its Secretary,
Labour Department, Secretariat,
Hyderabad and three others. ...
Respondents

Counsel for the appellant : Sri T. Lakshminarayana

Counsel for respondent Nos.3 and 4 : Sri Bhaskara Rao
Bandarupalli

Per G.S. Singhvi, C.J.

Sri A. Ananda Rao, the husband of respondent No.3, who was employed in the establishment of the appellant namely, M/s. Neelam and Company, filed an appeal under Section 50 of the Andhra

Pradesh Shops and Establishments Act, 1988 (for short, 'the Act') for issue of a direction to the appellant herein for payment of Rs.89,678/- representing wages for the period from 15-10-1999 to 5-7-2000. Similar appeal was filed by P. Kota Satyam for payment of wages i.e. Rs.17,25,918/- for the period of two years and three months. During the pendency of the appeal, the appellant filed I.A.Nos.1, 2 and 3 of 2006 in Appeal No.5 of 2000 filed by Sri A. Ananda Rao and I.A.Nos.4, 5 and 6 of 2006 in Shop Appeal M.P. No.4 of 2003 filed by P. Kota Satyam for impleadment of her husband, Sri Gowtham Chand Jain as second opposite party, to permit him to give evidence in the appeals on her behalf and to exempt her from personal appearance. She averred that even though the establishment was registered in her name, the same was being managed by her husband, Sri Gowtham Chand Jain and on account of being a paradanashin lady of Jain community, she was not in a position to appear in the court and give evidence.

By an order dated 13-2-2007, the Prescribed Authority dismissed all the above applications.

The learned Single Judge dismissed the writ petition by recording the following observations:

"I am unable to agree with any of the submission of the petitioner. It is the admitted case of the petitioner that the firm, namely "M/s. Neelam and Company" stands in her name. Since the firm stands in the name of the petitioner, she cannot be allowed to contend that she is not in control of the administration and business of the firm. If in fact, the administration and business of the firm was being carried on by her husband, then nothing prevented her from disclosing the details as to in what position her husband, carried on the administration and business of the firm. The petitioner except stating that since the administration and business was being carried on by her husband, he be added as 2nd opposite party, has neither disclosed the position in which her husband was managing the firm, nor placed any material to show that the day to day administration and business of the firm. Further, the General Power of Attorney, executed by her in her favour of her husband also, except delegating certain powers to her husband, does not give any power to her husband to add himself as 2nd opposite party. In the absence of any material filed by the petitioner to show that not she, but her

husband was carrying on the administration and business of the firm, no exception can be taken to the order passed by the 2nd respondent refusing to add the husband of the petitioner as 2nd opposite party, and consequently refusing to permit her husband to give evidence on her behalf, and more so when it would be improper to permit a person not well versed with the day to day affairs and administration and business of the firm to give evidence. No doubt, the petitioner belongs to Jain community, but that by itself cannot be a ground for her to seek exemption from appearance before the authority, and since the petitioner being a women, was said to be carrying on the day to day administration and business of the firm, no exception can be taken to the impugned order, passed by the 2nd respondent refusing to exempt the petitioner from appearance.”

Sri T. Lakshminarayana, learned counsel for the appellant submitted that he does not want to press his client’s prayer insofar as it relates to impleadment of her husband as opposite party No.2 and that she will feel satisfied if her husband is permitted to give evidence as a witness in the pending appeals.

In our opinion, the request made by the learned counsel is reasonable and merits acceptance. Therefore, without going into the legality or otherwise of order dated 13-2-2007 passed by the Prescribed Authority and the one recorded by the learned Single Judge, we deem it proper to dispose of the appeal by directing the Prescribed Authority to allow the husband of the appellant namely, Sri Gowtham Chand Jain to be examined as a witness in the pending cases.

The appeal is disposed of in the manner indicated above.

G.S. SINGHVI, C.J.

8th October, 2007

C.V. NAGARJUNA REDDY, J.

